

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C. 20460**

**OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION**

**To:** Richard P. Keigwin, Jr., Director  
Office of Pesticide Programs

**From:** Michael L. Goodis, Director  
Registration Division  
Office of Pesticide Programs

**Subject:** Repeat Section 18 Emergency Exemption Requests for Bifenthrin on Apple, Peach, and Nectarine to Control the Brown Marmorated Stink Bug (BMSB) in Maryland and Virginia (EE#s 19-MD-02, -03, and -04; and 19-VA-05, -06, and -07)

This is the **eighth** year that emergency exemption requests have been submitted for this use, which has been authorized for the past seven years to DE, MD, NC, NJ, NY, PA, VA, and WV. The use pattern requested this year is identical to that from the past exemptions. For further details, the 2012 Decision Memorandum is attached.

**Maryland Department of Agriculture** was authorized a maximum of 3,570 acres under the 2018 exemption and indicated that approximately 2,000 acres were treated.

**Virginia Department of Agriculture and Consumer Services** was authorized a maximum of 29,000 acres under the 2018 exemption, and based on best available information, 17,622 acres were treated.

**Applicant Requests:** The applicants state that the BMSB, a recently introduced invasive pest, continues to pose a threat to pome and stone fruit trees in the US. There are no natural enemies in the US to provide reliable biological control. Further, available pesticide controls are limited and inadequate to provide season-long control of BMSB populations that reach damaging levels, as first occurred in 2010. Because BMSB populations vary between years and over different localized areas, the acreage treated has varied. However, the applicants note that an emergency still exists when populations develop at high levels. The applicants also observed increased BMSB populations during 2016-2017, as compared to the prior two years (2014-2015).

**Agency Evaluation:** All findings of the science divisions (BEAD, HED, and EFED) supported the criteria for allowing emergency exemptions for these uses. Time-limited tolerances for apple, peach, and nectarine at 0.5 ppm were established for the previous exemptions and are set to expire on December 31, 2021.

**Progress Toward Registration:** IR-4 submitted tolerance petitions to EPA in 2016 to support registration of these uses. The PRIA date is scheduled for September 25, 2020 to allow for full evaluation of bifenthrin in connection with Registration Review, including assessing the impact of these and other proposed new uses. Under Registration Review, draft human health and ecological risk estimates were posted for a public comment period in 2018. Registration Review is ongoing with a proposed interim decision targeted for the 4<sup>th</sup> quarter of FY19.

**Recommendation:** RD has confirmed that the need still exists and there do not appear to be any outstanding risk data that might undermine the previous safety findings. The RD/MUERB analyst confirmed that these requests meet the criteria for the re-certification program for 2020, and this determination is included in the attached letters. Therefore, I recommend that the attached actions be approved.